

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

REBECCA PORTILLO,

Case No. 2:13-cv-01109-JAD-PAL

Plaintiff,

**ORDER OF REPORT AND  
RECOMMENDATION**

v.

JOHN NORMAN,

Defendant.

This matter is before the court on Plaintiff Rebecca Portillo's ("Portillo") failure to comply with this court's Order (Dkt. #39) to be present for a settlement conference, Order to Show Cause (Dkt. #41), failure to keep in contact with her attorney and failure to prosecute her lawsuit.

On December 11, 2014, the parties filed their Joint Pretrial Order (Dkt. #36) after the expiration of the deadline for filing the pretrial order and after the court entered an additional Order (Dkt #34) and Order to Show Cause (Dkt #35). When the joint pretrial order was finally filed the district judge referred (Dkt. #38) this case to the undersigned to conduct a settlement conference. An Order (Dkt. #39) was entered December 31, 2014, setting the settlement conference for February 20, 2015.

On February 19, 2015, at approximately 4:00 p.m., Plaintiff's counsel, Mr. Horne, contacted chambers ex parte to advise that he had not been in contact with his client for quite some time and felt that the settlement conference should be continued. Mr. Horne advised chambers staff that he had forwarded the order setting the settlement conference to Ms. Portillo and had left several messages for her but she had not responded. He did not know whether she actually received the order or the messages as she has not been in contact with him. Mr. Horne was advised to comply with the order scheduling the settlement conference.

1 On February 20, 2015, Mr. Horne appeared without his client. Pro se Defendant John  
2 Norman appeared as ordered. Mr. Horne advised the court and Mr. Norman that he had not had  
3 any contact with his client for a number of months. A law clerk in his office last had contact  
4 with Ms. Portillo before the holidays. Ms. Portillo did not assist counsel in the preparation of the  
5 joint pretrial order, and Mr. Horne does not know whether she is still at the last address and  
6 phone number she provided. Mr. Horne acknowledged that he advised Ms. Portillo of her  
7 responsibility to keep in contact with him while this case is pending. Ms. Portillo had not  
8 discussed settlement with Mr. Horne or authorized him to make a demand on her behalf. Mr.  
9 Horne had no explanation for his client's failures to keep in contact or comply with the court's  
10 order.

11 As a result on February 20, 2015, I issued an Order to Show Cause (Dkt. #41) for  
12 Plaintiff to show cause in writing no later than March 13, 2015, why sanctions should not be  
13 imposed for her failure to attend the February 20, 2015, settlement conference as ordered, and  
14 her failure to keep in contact with her attorney. The order warned Plaintiff that failure to comply  
15 the order to show cause would result in sanctions and a recommendation to the district judge for  
16 case-dispositive sanctions for failure to comply with this court's order to be present at the  
17 settlement conference, her failure to keep in contact with her attorney, and her failure to  
18 prosecute this lawsuit. To date, Plaintiff has not complied with the order to show cause.

19 Plaintiff's failure to comply with the court's order and failure to keep in contact with her  
20 lawyer has wasted the court's time and resources and the time and resources of the Defendant  
21 she sued. Plaintiff's willful failure to comply with the court's Orders is an abusive litigation  
22 practice that has interfered with the court's ability to hear this case, delayed litigation, disrupted  
23 the court's timely management of its docket, wasted judicial resources, and threatened the  
24 integrity of the court's orders and the orderly administration of justice. Sanctions less drastic  
25 than dismissal are unavailable because Plaintiff has willfully refused to comply with multiple  
26 court Orders and the Local Rules of Practice.

27 Accordingly,

28 ///

DATED this 19th day of March, 2015.

3